

TO: Clerk's Office

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL

United States of America

-V.-

Herzin Cineus

23-MJ-694

Docket Number

SUBMITTED BY: Plaintiff Defendant DOJ ☒

Name: AUSA James R. Simmons

Firm Name:USDOJ, USAO, EDNY

Address: 271A Cadman Plaza East

Brooklyn, NY 11201

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INDICATE UPON THE PUBLIC DOCKET SHEET: YES NO ☒
If yes, state description of document to be entered on docket sheet:



A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____

Judge/Magistrate Judge: _____

Date Entered: _____

B) If a new application, the statute, regulation, or other legal basis that authorizes filing under seal

Ongoing criminal investigation.

ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
AND MAY NOT BE UNSEALED UNLESS ORDERED BY
THE COURT.

DATED: Brooklyn, NEW YORK

s/ James R. Cho July 28, 2023

U.S. MAGISTRATE JUDGE

RECEIVED IN CLERK'S OFFICE _____ DATE

MANDATORY CERTIFICATION OF SERVICE:

A.) _____ A copy of this application either has been or will be promptly served upon all parties to this action, B.) _____ Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: _____; or C.) ☒ This is a criminal document submitted, and flight public safety, or security are significant concerns.
(Check one)

07/28/2023

DATE

James R. Simmons
SIGNATURE

KTF:JRS
F. #2023R00212

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

- against -

HERZIN CINEUS,

Defendant

COMPLAINT AND
AFFIDAVIT IN SUPPORT
OF ARREST WARRANT

(18 U.S.C. § 1029(a)(2))

23-MJ-694

----- X

EASTERN DISTRICT OF NEW YORK, SS:

DANIEL HERZOG, being duly sworn, deposes and states that he is a Detective with the New York City Police Department (“NYPD”) and a Task Force Officer with the Department of Homeland Security, Homeland Security Investigations (“HSI”), duly appointed according to law and acting as such.

In or about and between October 2022 and December 2022, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HERZIN CINEUS, together with others, did knowingly and with intent to defraud, use one or more unauthorized access devices, to wit: stolen credit cards sent via the United States mail, during a one-year period, in a manner affecting interstate and foreign commerce, and by such conduct did obtain things of value aggregating \$1,000 or more during that period.

(Title 18, United States Code, Section 1029(a)(2))

The source of your deponent's information and the grounds for his belief are as follows:¹

I. Introduction

1. I am a Task Force Officer with HSI and am assigned to the Financial Crimes Task Force. I have also been a detective with the NYPD for nine years, with seven of them spent on the Financial Crimes Task Force. I have been a police officer with the NYPD for 20 years in total. In these roles, I have participated in hundreds of investigations relating to credit card fraud, wire fraud, and other forms of financial fraud. Specifically, I have experience investigating cases involving the use of cellular telephones to commit financial fraud by bypassing financial institutions' two-step authentication process. As a result of my training and experience, I am familiar with the techniques and methods of operation used by individuals involved in criminal activity to conceal their actions from detection by law enforcement.

2. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history records; and from reports of other law enforcement officers involved in the investigation.

II. Overview of the Scheme

3. The United States, including the United States Postal Inspection Service ("USPIS"), HSI, and the NYPD, are investigating a series of financial frauds being perpetuated using the personal identifiable information ("PII") of innocent third parties—including names,

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

telephone numbers, addresses, Social Security numbers, bank records, and credit card information, among other types of PII.

4. In one component of this scheme, the perpetrators fraudulently obtain SIM cards associated with the cellular telephones of victims throughout the country and then use those SIM cards to trick financial institutions into sending credit cards in the names and accounts of these third-party victims to addresses located in Brooklyn, New York, in the Eastern District of New York—addresses that are not where the victims reside.

5. Upon receiving these victims' credit cards in Brooklyn, New York, the perpetrators of the scheme then use the credit cards to purchase large amounts of merchandise from malls and stores throughout the New York area.

III. Probable Cause Regarding the Defendant HERZIN CINEUS

6. Based on law enforcement surveillance; my review of still images from surveillance videos, surveillance videos, and documentary evidence, including banking records and other evidence; and my conversations with other law enforcement officers, there is probable cause to believe that the defendant HERZIN CINEUS participated in this scheme.

7. As described below, on multiple occasions, credit cards in the names of third parties were sent to addresses located within the Eastern District of New York and elsewhere. The defendant HERZIN CINEUS then took possession of those credit cards and used them to purchase goods at department stores. Several of the transactions in which CINEUS used the stolen credit cards were recorded on surveillance video and are set forth in additional detail below. In each of the transactions set forth below, the credit card at issue was sent to an address located in Brooklyn, New York, in the Eastern District of New York.

8. On April 21, 2023, the Honorable James R. Cho, United States Magistrate Judge, Eastern District of New York, authorized a warrant to search electronic devices belonging to the defendant HERZIN CINEUS, under Miscellaneous Docket Number 23-373 (the “April 21, 2023 Warrant”). Records and information obtained pursuant to that warrant showed that CINEUS had PII for over 125 third-party individuals—including credit card numbers, names, addresses, dates of birth, and Social Security numbers—saved on his electronic devices, including an Apple iPhone 11 (the “Cineus iPhone”). PII for all of the victims whose credit cards CINEUS used in the transactions described below were also found on CINEUS’s electronic devices that were the subject of that warrant.

October 19, 2022

9. On October 19, 2022, the defendant HERZIN CINEUS purchased \$6,001.19 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant. Immediately following this transaction, CINEUS purchased an additional \$8,645.82 worth of merchandise at that same department store using a credit card belonging to a different third-party victim, whose identity is known to your affiant.

10. The Cineus iPhone contained a photograph that showed both of the credit cards the defendant HERZIN CINEUS used in these transactions positioned side-by-side. In addition, the Cineus iPhone contained a photograph of one of the products that CINEUS purchased during these transactions. The geolocation connected to this photograph was the location of the department store where CINEUS made these purchases.

11. The defendant HERZIN CINEUS was captured on surveillance video completing these purchases, as seen in Figure-1 below.



Figure-1

October 20, 2022

12. On October 20, 2022, the defendant HERZIN CINEUS purchased \$5,865.75 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

13. The Cineus iPhone contained a photograph that showed the credit card the defendant HERZIN CINEUS used in this transaction.

14. The defendant HERZIN CINEUS was captured on surveillance video completing these purchases, as seen in Figure-2 below.



Figure-2

October 21, 2022

15. On October 21, 2022, the defendant HERZIN CINEUS purchased \$7,934.90 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

16. The Cineus iPhone contained messages exchanged with another party immediately preceding the transaction that described the merchandise the defendant HERZIN CINEUS ultimately purchased.

17. The defendant HERZIN CINEUS was captured on surveillance video completing this purchase, as seen in Figure-3 below.



Figure-3

November 23, 2022

18. On November 23, 2022, the defendant HERZIN CINEUS purchased \$5,657.15 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

19. The Cineus iPhone contained a photograph that showed the credit card used in this transaction.

20. The defendant HERZIN CINEUS was captured on surveillance video completing this purchase, as seen in Figure-4 below.



Figure-4

December 8, 2022

21. On December 8, 2022, the defendant HERZIN CINEUS purchased \$78.00 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

22. The Cineus iPhone contained a photograph that showed the credit card the defendant HERZIN CINEUS used in this transaction.

23. The defendant HERZIN CINEUS was captured on surveillance video completing this purchase, as seen in Figure-5 below.



Figure-5

December 28, 2022

24. On December 28, 2022, the defendant HERZIN CINEUS purchased \$78.00 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

25. The Cineus iPhone contained a photograph that showed the credit card the defendant HERZIN CINEUS used in this transaction and a photograph depicting the receipt for this transaction.

26. The defendant HERZIN CINEUS was captured on surveillance video completing this purchase, as seen in Figure-6 below.



Figure-6

December 29, 2022

27. On December 29, 2022, the defendant HERZIN CINEUS purchased \$1,305.41 worth of merchandise at a department store, the identity of which is known to your affiant, using a credit card belonging to a third-party victim, whose identity is known to your affiant.

28. The Cineus iPhone contained a photograph that showed the credit card the defendant HERZIN CINEUS used in this transaction and a photograph depicting the credit card used in this transaction placed on top of a receipt for the transaction.

29. The defendant HERZIN CINEUS was captured on surveillance video completing this purchase, as seen in Figure-7 below.



Figure-7

30. Surveillance video recorded immediately after this transaction showed the defendant HERZIN CINEUS entering a white vehicle with a license plate registered to CINEUS's father at the address where CINEUS resides.

31. Based on the foregoing facts, there is probable cause to believe that the defendant HERZIN CINEUS has committed access device fraud, as described herein.

WHEREFORE, your deponent respectfully requests that the defendant HERZIN CINEUS be dealt with according to law.



DANIEL HERZOG
Task Force Officer, United States Department of
Homeland Security, Homeland Security
Investigations

Sworn to before me on July 28, 2023 by telephone.

s/ James R. Cho

THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

v.

HERZIN CINEUS

Case No. 23-MJ-694

*Defendant***ARREST WARRANT**

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
 (name of person to be arrested) HERZIN CINEUS,
 who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Access device fraud in violation of Title 18, United States Code, Section 1029(a)(2).

Date: 07/28/2023s/ James R. Cho*Issuing officer's signature*City and state: Brooklyn, New YorkHon. James R. Cho, United States Magistrate Judge*Printed name and title***Return**

This warrant was received on (date) _____, and the person was arrested on (date) _____
 at (city and state) _____.

Date: _____

*Arresting officer's signature**Printed name and title*

**This second page contains personal identifiers provided for law-enforcement use only
and therefore should not be filed in court with the executed warrant unless under seal.**

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____